

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 26 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANTONIUS INDRA WARDOYO,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-74640

Agency No. A96-364-543

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 22, 2008**

Before: SKOPIL, FARRIS, and BEEZER, Circuit Judges.

Antonius Indra Wardoyo, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeal's ("BIA") streamlined order affirming an immigration judge's ("IJ's") adverse credibility determination and subsequent

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

denial of asylum and withholding of removal. We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for review.

We have jurisdiction to review the IJ's credibility determination. Although Wardoyo did not use legal terminology, Wardoyo's *pro se* brief to the BIA sufficiently put the BIA on notice that Wardoyo challenged the IJ's adverse credibility determination. *See Ladha v. INS*, 215 F.3d 889, 901 n.13 (9th Cir. 2000).

We review the IJ's credibility determination for substantial evidence and will uphold it unless the evidence compels a contrary conclusion. *See Kaur v. Gonzales*, 418 F.3d 1061, 1064 (9th Cir. 2005). Wardoyo testified inconsistently regarding whether the rape of his sister occurred in his home or his family's store, and whether the scene was quiet or chaotic. These inconsistencies go to the heart of his claim and are sufficient to support the IJ's adverse credibility determination. *See Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001). In the absence of credible testimony, Wardoyo has failed to establish that he is eligible for asylum and withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156–57 (9th Cir. 2003).

Wardoyo has waived any arguments regarding relief under the Convention Against Torture by failing to raise them in his opening brief. *See Ghahremani v. Gonzales*, 498 F.3d 993, 997 (9th Cir. 2007).

Wardoyo's contention that he is otherwise entitled to relief because he is a member of a disfavored group that suffers from a pattern of persecution is foreclosed by our decision in *Lolong v. Gonzales*, 484 F.3d 1173, 178-81 (9th Cir. 2007) (en banc).

PETITION FOR REVIEW DENIED.